



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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**Jolynn Marra
Interim Inspector General**

July 17, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:20-BOR-1721

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Darlene Smith, Department Representative

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

[REDACTED],

Appellant,

v.

Action Number: 20-BOR-1721

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on June 23, 2020, on an appeal filed June 1, 2020.

The matter before the Hearing Officer arises from the April 28, 2020 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to household composition.

At the hearing, the Respondent appeared by Darlene Smith, Economic Service Worker Supervisor, WVDHHR. Appearing as a witness for the Respondent was Emily Shumate, Repayment Investigator, with Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. Appearing as a witness for the Appellant was [REDACTED], the Appellant's husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision, dated April 28, 2020; Notice of Pre-Hearing Conference, dated June 3, 2020; and Email Correspondence, dated April 13, 2020 through June 3, 2020
- D-2 Verification Checklist, dated April 14, 2020
- D-3 Email Correspondence, dated February 13, 2020 through June 15, 2020
- D-4 eRAPIDS computer system screenshot printout of Case Comments for [REDACTED], dated February 13, 2020 through April 9, 2020
- D-5 Email Correspondence, dated June 11, 2020; and two (2) copies of IFM Address Information Request from the Postmaster, dated March 18, 2020
- D-6 West Virginia Income Maintenance Manual (WV IMM) §§ 3.2 through 3.2.1.A.2

Appellant's Exhibits:

NONE

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant was recipient of SNAP benefits for a one-person Assistance Group (AG).
- 2) On February 13, 2020, a Social Worker with WVDHHR Child Protective Services (CPS) reported to an Economic Service Worker (ESW) that the Appellant's husband, [REDACTED], was residing in her home. (Exhibits D-3 and D-4)
- 3) On March 18, 2020, the [REDACTED] County Postmaster verified that the Appellant and Mr. [REDACTED] receive mail at [REDACTED]. (Exhibit D-5)
- 4) On April 14, 2020, notice of verification was issued to the Appellant advising her that verification of Mr. [REDACTED] checking account and proof of medical expenses was due on or before April 23, 2020. (Exhibit D-2)
- 5) On April 28, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefit would reduce effective June 1, 2020, due to not turning in all the requested information and that her household income has increased. (Exhibit D-1)
- 6) Effective June 1, 2020, Mr. [REDACTED] and his income were added to the Appellant's SNAP AG.
- 7) The Appellant's SNAP allotment decreased from \$194 to \$16 per month effective June 1, 2020.
- 8) The Appellant and Mr. [REDACTED] were married on February 2, 2017.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 1.2.4 reads that the client's responsibility is to provide complete and accurate information about his or her circumstances so that the worker can make a correct determination about his or her eligibility.

WV IMM § 1.2.3.A explains that the Department must obtain all pertinent, necessary information through verification, when appropriate.

WV IMM § 1.2.5 reads that providing the applicant with a list of verifications is needed to

determine eligibility, using form DFA-6 or the verification checklist. He must also be told the penalty for failure to provide the verifications and what he must do if he finds he cannot obtain it by the deadline.

WV IMM § 3.4.1.A.2 explains that spouses – individuals who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage must be included in the same SNAP AG.

WV IMM § 10.2.1 reads if the reported information is true and would have a bearing on eligibility or the benefit level, the Worker must contact the client to confirm the information, keeping in mind the AG's reporting requirements. Verification may be requested, if appropriate.

WV IMM § 10.4.2.B.1 explains that action must be taken for all assistance groups when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. A source considered verified upon receipt includes a report from a Social Worker and/or finding from an IFM investigation.

WV IMM § 10.6.2 explains that clients must report all changes as soon as possible after he becomes aware of them in circumstances such as, but not limited to, income, assets, household composition, and change of address. This allows the Worker to update the case and allows for advance notice if the reported information results in an adverse action.

WV IMM § 11.5.1.C reads that IFM investigates referrals reported that a person unreported individual(s) with income are suspected to be living in the home.

DISCUSSION

The Appellant was a recipient of SNAP benefits for a one-person AG. On February 13, 2020, a Social Worker with WVDHHR Child Protective Services (CPS) reported to an Economic Service Worker (ESW) that the Appellant's husband, Mr. [REDACTED] was residing in her home. The Respondent reported the information to IFM who assigned the referral for investigation. Based on the CPS worker report and later the IFM investigative conclusion, the Respondent included Mr. [REDACTED] in the Appellant's AG. With the inclusion of Mr. [REDACTED] and his income, the Appellant's SNAP benefits were reduced from \$194 to \$16, effective June 1, 2020. The Appellant did not disagree with the income used in determining the reduction in benefits, only that Mr. [REDACTED] is not a member of her household and should not have been included in her AG.

The Respondent had to prove by a preponderance of evidence that Mr. [REDACTED] was correctly included in the Appellant's AG and that his income was required to be included when the Respondent made the June 2020 decision regarding the AG's SNAP eligibility allotment. Policy requires that individuals who are legally married to each other under the provisions of state law and reside together, must be included in the same SNAP AG. Policy further states that the CPS social worker report and IFM findings are considered verified upon receipt and the Respondent

must take action. Pursuant to policy, there is no required minimum amount of time that a husband and wife reside with each other to be included in the same SNAP AG.

The Respondent's witness, Ms. Shumate, testified on February 20, 2020, she received a report that the Appellant and Mr. [REDACTED] were residing together. Ms. Shumate testified that during her investigation, she confirmed that the Appellant and Mr. [REDACTED] were married, had a vehicle registered together, and that the [REDACTED] County Postmaster verified the Appellant and Mr. [REDACTED] receive mail at [REDACTED]. Ms. Shumate further testified Mr. [REDACTED] has an active child support case with the Bureau for Child Support Enforcement (BCSE) and that BCSE's case recording system indicated that they were in the same home together when they made telephone calls to BCSE regarding his case.

The Appellant testified she and Mr. [REDACTED] were married on February 2, 2017, but due to a domestic violence issue resulting in a court order, they separated on November 23, 2017. The Appellant and Mr. [REDACTED] testified that he resides with his parents at [REDACTED]. The Appellant indicated that she was aware and gave Mr. [REDACTED] permission to use her address for his mailing purposes. The Appellant argued that if Ms. Shumate would have requested verification from the [REDACTED] County Postmaster, they would have corroborated he lives with his parents. However, the Appellant provided no proof from the [REDACTED] County Postmaster or Mr. [REDACTED] parents attesting that Mr. [REDACTED] resides at his parents' home.

The Appellant testified she and Mr. [REDACTED] did share a common vehicle, which stopped working and was transferred to a junkyard. The Appellant stated that other than the vehicle, she and Mr. [REDACTED] have no other shared assets. The Appellant testified she believes she knows who reported her for fraud and that the individual is spiteful. She further argued the Respondent's investigation was improper because she was not notified that she was being investigated.

The Appellant and Mr. [REDACTED] admitted that Mr. [REDACTED] stays at the Appellant's home approximately seven (7) days per month. Mr. [REDACTED] testified that he recently had his leg amputated and because his parents are elderly, he appointed the Appellant as his Medical Power of Attorney (MPOA). While the evidence regarding BCSE reports, common assets, and mailing addresses is circumstantial and given little weight, per policy, there is no minimum time a husband and wife must reside together to be required to be included in the same AG. The testimony of the Appellant and her husband confirm that he must be included in her AG for the determination of SNAP eligibility.

Testimony by the Appellant and her spouse established that Mr. [REDACTED] lives with the Appellant and his income must be included in determining SNAP eligibility. Corroborating credible testimony and evidence verified that the Appellant and Mr. [REDACTED] are legally married and reside together approximately seven (7) days per month.

CONCLUSION OF LAW

- 1) The report from the Social Worker and investigator is considered verified upon receipt by the Respondent.
- 2) Evidence established the Appellant and Mr. [REDACTED] are legally married and reside in the same household seven (7) days per month.
- 3) Because there is no minimum set time a husband and wife must reside together to be required to be included in the same SNAP AG, Mr. [REDACTED] must be included in the Appellant's SNAP AG.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to include [REDACTED] and his income in the determination of the Appellant's SNAP benefits.

ENTERED this ____ day of July 2020.

Danielle C. Jarrett
State Hearing Officer